

Probation Services Task Force Meeting Minutes
July 19 – 20, 2001
Burlingame, CA

Attendance, July 19, 2001:

Task Force Members Present: Hon. Patricia Bamattre-Manoukian, Hon. Denny Bungarz, Mr. Alan Crogan, Mr. Bill Davidson, Hon. Ronn Dominici, Hon. Terry Friedman, Ms. Sheila Gonzalez, Mr. Bryce Johnson, Mr. Michael Johnson, Mr. Phil Kader, Hon. Bill LeBov, Mr. Bill Mahoney, Hon. Kevin McCarthy, Mr. Ralph Miller, Hon. Mike Nevin, Hon. Frank Ochoa, Mr. John Rhoads, Mr. Michael Roddy

Task Force Members Not Present: Hon. Trish Clarke

AOC Staff present: Ms. June Clark, Ms. Audrey Evje, Ms. Maureen O'Neil

CSAC Staff present: Ms. Elizabeth Howard, Mr. Rubin Lopez

Consultant: Mr. Alan Schuman

I. Announcements: Hon. Patricia Manoukian

A. Upcoming Meetings:

- Next meeting September 20 – 21, 2001
 - Will have draft of report ready by this meeting
- Writing group meeting August 24, 2001 at AOC from 10 a.m. – 3 p.m.
- Will revise report after the 9/20-21 meeting
- Report will go out for comment at the beginning of October
- Need to meet in November to make final changes to report after comments are incorporated: November 15-16, 2001 at the Doubletree in Burlingame.
- Final meeting in December 13, 2001 in Burlingame to review final draft – terms of task force members expire December 31, 2001.

B. Overview of Agenda

II. Detention Facilities Models Working Group Reports

A. Court Model (Hon. Frank Ochoa)

1. Model

- a. Keep facilities with probation under the jurisdiction of the local courts or through AOC administration (separate AOC division)
2. Jurisdictions with this model:

21 of the 35 states that provide juvenile probation services through the judicial branch also provide detention facilities (Alabama, Arizona, Arkansas, Connecticut, Colorado, Georgia, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Missouri, Montana, Nevada, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Wisconsin)
3. Describe model:
 - a. Who operates facilities?

Probation
 - b. Who provides intake and assessment?

Probation
 - c. Are there standards?

Yes, the courts promulgate them.
 - d. Who holds facilities to standards?

The courts
 - e. Is there a probation liaison at each facility at all times (assuming probation does not run facility)?

Not necessary since probation runs facilities
4. Pros
 - a. Continuity of services
 - b. Funding stability
 - c. Reports are that this model works well in states where it exists. No conflicts have been reported in such states.
5. Cons
 - a. Conflict of interest due to:
 - Separation of powers between the executive and judicial branches of government; detainment is an executive branch function.
 - Judges have the responsibility for inspecting juvenile detention facilities. Judges also oversee litigation regarding claims of overcrowding or substandard conditions in such facilities. Judges would have a conflict in terms of hearing such cases, and do not want to be defendants in such lawsuits.
 - b. Opposition by judicial branch

6. Other issues:

After recognizing that the court facilities model was not viable, the working group discussed the third model, in which detention facilities would be kept with the counties, probation services would be administered by the courts/state, and the CPO would wear two hats and oversee both departments.

a. Pros:

The working group felt that this model may be a potential solution, since this model focuses on partnerships in funding and in the appointment/evaluation of the CPO; all stakeholders benefit in some way:

- The courts/state assumes responsibility for probation services and the maintenance of standards;
- The counties' level of funding for probation is capped at a certain level and are guaranteed additional state resources when they are necessary; and
- CPOs and DPOs ensure that continuity in the provision of probation services is preserved.

b. Cons:

- The status quo is maintained, since the CPO continues to report to two entities;
- Difficulties related to having the CPO employed by two separate levels of government (county and court).

7. Comments:

The working group came to a consensus that this model has been successful in other jurisdictions (i.e. Arizona and Iowa) and should be noted in the task force's report as a viable long-term goal, when the AOC might have assumed more responsibility over court facilities, and when the political and economic climate improves.

Discussion

- Court model could be a long-term recommendation, but is not workable right now due to strong opposition from judges and the Judicial Council
- Solution: Two Hats Model, in which facilities remain with the county and services move to the courts; the CPO would oversee both departments
 - Courts need to be more involved

- Hon. Manoukian reviews letter from Presiding Judge of Los Angeles, Judge Bascue. (letter circulated to all task force members for review)
- Voices similar concerns over facilities issue due to horrible conditions in facilities.
- Concern over employee issue

B. Arizona Model (Ms. Sheila Gonzalez)

- Working group was unable to meet by conference call due to schedule conflicts.

1. Model

- b. Separate facilities from probation services; keep facilities under county control but develop agreement with probation departments for the administration of services in facilities (Arizona model)

2. Jurisdictions with this model:

State and counties (mainly state liability); please see attached statutes – ARS 8-305 lays out the county's responsibilities, and ARS 8-306 defines the presiding judge's responsibilities.

3. Describe model:

a. Who operates facilities?

Counties operate and maintain juvenile detention facilities, but facilities are staffed by court employees (detention officers are employed by probation but paid by counties) and the Presiding Judge of the Juvenile Court oversees the facilities.

b. Who provides intake and assessment?

Probation (detention officers)

c. Are there standards?

Yes; guidelines exist to justify detaining a child, since judges must manage inmate populations.

d. Who holds facilities to standards?

Courts – liability usually falls with the state if it is a supervision issue because Arizona's statute specifies that liability rests with the supervising authority, not necessarily the funding source.

The Chief Justice has the ability to remove juveniles from inadequate facilities, and can force the counties to improve the facility or build a new one. However, courts rarely use their power

to order the county to cover the cost of court functions, but instead try to work with the counties to find a solution/more funding for facilities. Frank Carmen describes the situation as a balancing act, which usually works well.

Occasionally, counties are found liable due to negligence for not maintaining sufficient security in the facility, etc.

e. Is there a probation liaison at each facility at all times (assuming probation does not run facility)?

Probation employees (detention officers) staff facilities.

4. Pros

- Collaboration between state and county exists; has resulted in increased funding for building new facilities
- Because the Presiding Judge oversees facilities, the courts work to ensure that facilities are not overcrowded.
- Maintenance of Effort is plausible.

5. Cons

- Liability related to facilities usually falls with the state
- The state usually ends up paying most of costs incurred from lawsuits, even when counties are held liable as well, since counties argue that they lack sufficient funds.
- Might not work in California, due to differences in population size and geography
- A strong, proactive Supreme Court and AOC are necessary for this model to work.
- Split funding between state and county is seen as undesirable by Frank Carmen
- Judges would be found liable in facilities suits

Discussion:

- All facility employees are probation employees
- Liability usually falls with the state.
- Crogan: Judges would be found liable in facilities suits – add under Con section
 - Maintenance of Effort is plausible – add under Pro section of model
- Report from PSTF presentation to Judicial Council (Sheila Gonzalez)
 - JC feels strongly against the courts to operate detention facilities, because otherwise federal courts would be the last resort for resolving facilities cases.

- Funding is not available: would compete with the court facilities issue for funding.
- JC is not opposed to having control over probation services
- Judicial Council supports county and court collaboration regarding appointment of the CPO and services
- Rhoads: liability issue – are courts really insulated from facilities lawsuits right now? (Yes)
- Mahoney: If the courts have the ability to decide how the facilities are run, it should work. The Judicial Council and AOC just don't want to operate facilities, it's not that they can't do it due to a fatal flaw.
- Gonzalez: The Council has good reasons for not wanting facilities
- Friedman: In matters of ethics, we can't rely on the determinations of other jurisdictions; we have to make our own judgment call.
- Lopez: County frustration is that they are in charge of the administration of a department, and are accountable to the public; the counties can't effectively administer the department. Collaboration is a good start, but it really must entail collaboration in administering programs.
- Ochoa: Judicial branch is amenable to collaboration – will take time to achieve acceptance from all counties, due to difficulties for larger counties.
- Gonzalez: Judges will need to be educated – can't order programs if the funds are not available. Judges will need to be considerate and reasonable partners.
- McCarthy: Sometimes, statutory requirements in facilities are not met due to funding shortages, etc.; the same goes for programs (like Prop 36). Judges will need to decide cases that are brought when these situations occur. Judges need to enforce the law even if the funds aren't there. Judicial branch is becoming more proactive, are moving away from traditional role of deciding cases. If take on facilities, judges are concerned that they will not be neutral arbitrators, but judges are open to being involved with services and some services are mandated as well.
- Schuman: In other states, has brought jurisdictions together that normally didn't communicate; once they started meeting regularly, all barriers and predicted problems melted away. If the judicial and executive branches met regularly, problems would go away.
- Gonzalez: Some counties have justice policy councils between county and judicial branches. Judges need to be educated as to the need for collaboration with counties.
- Rhoads: Chairs the Criminal Justice Council in Santa Cruz; they are a new concept and have a long way to go, but potential exists for great collaboration.
- Crogan: Agrees that judicial system is capable of taking on probation services. If judicial branch takes on facilities, judges will be sued for policy failures in facilities.

- Manoukian: Timing is the key issue: the courts are not ready right now to take on detention facilities. The court model and the Arizona model are consistent.
- Lopez: Report should recognize the dichotomy that exists between services and facilities, and the pros and cons of judicial responsibility over facilities.

C. “Two Hats” Model (Mr. John Rhoads)

1. Model

- a. Separate facilities from probation services, keep them with counties but the CPO would wear two hats and oversee both departments

2. Jurisdictions with this model:

We know of no jurisdictions that presently operate with this model. We do know of many joint power agreements and such which operate under circumstances like this or very similar.

3. Describe model:

- a. Who operates facilities?

The county would operate the facilities and all the employees would be theirs. The facilities would report to the CPO who would oversee the operation on behalf of both entities. The CPO salary would be paid half by the county and half by the AOC. This would mean the CPO would answer to both entities as they do now. Since the hiring and dismissal of CPO’s will be a joint venture giving counties veto power, it is felt this arrangement will add strength to the on going need for collaboration.

- b. Who provides intake and assessment?

Probation will provide that service to the institutions.

- c. Are there standards?

Yes. We do not see anything different in this area from what goes on today. The Board of Corrections will continue with this responsibility of developing and maintaining standards for juvenile institutions.

- d. Who holds facilities to standards?

As it is today the Board of Corrections through their institutional inspection responsibility will hold jurisdictions to standards. It will also be the responsibility of the CPO to report to the county the

results of those inspections. Further the CPO will be responsible for drafting a corrective action plan to remedy any substandard issue.

e. Is there a probation liaison at each facility at all times (assuming probation does not run facility)?

Depending on the size of the jurisdiction there may be a liaison in large counties present at all time but not in smaller counties. There will be an on-call duty officer available at all times in both.

4. Pros

- It builds on the collaboration between counties and courts.
- It is an incremental first step that allows the courts to move away from their conflict of interest.
- It keeps the juvenile continuum intact.
- It will provide for continued detention reform efforts.
- It will provide for more fluid movement from one system to the other for the employees.

5. Cons

It forces institutional employees to be county employees and restricts their movement between departments. Guarantees and grandfather clauses may relieve some of this but the fact remains that there will not be an open transfer policy between institutions and services because the two systems are totally different.

Discussion:

- CPOs want to maintain responsibility for detention facilities, because they are a process, not a place.
- Institutions are important as part of the services continuum.
- Workload standards would need to be developed by the AOC.
- Employee issues: probation employees need to be able to move between services and institutions.
- Probation employees would become state employees.
- Court employees are not considered state employees, but flexibility exists; employees can move between the courts and the counties, including management.
- Roddy: Potential problem: things are fine unless differences in county and court contracts, etc. arise.
- Lopez: Changing classifications of employees is very difficult.
- Howard: This model would require the examination of codes and statutes to determine and identify what probation services are.

- Manoukian: Report should recommend the collaborative evaluation of services, and collaborative examination of statutes, in order to harmonize legislation and effect the best service provision to probationers. (e.g. to avoid competing legislation)
- Rhoads: Need to clean up conflicting and outdated legislation.
- Kader: Services Subcommittee has recommended collaboration, in order to effectively provide services. Institutions are a process: many programs take place in the institutions. Separation of services from facilities is a big concern for these reasons.
- Gonzalez: Services that are provided in detention facilities should not be separated from probation services.
- Ochoa: Under this model, the jurisdictions would be separate.
- Schuman: Currently, many institutional programs are provided by executive agencies; this is not a problem.
- Rhoads: This model is a compromise, but is a step in the right direction. The CPO needs to supervise detention employees.
- Lopez: Model is based on shared costs – do we know what these shared costs are?
- Rhoads: Detention, personnel, and service costs are separate already.
- Crogan: 80% of costs are spent on staff
- Rhoads: This is a trial court model, in which the counties operate detention facilities. The model is based on a MOE by the counties based on a certain funding level.
- Lopez: Does the split funding, collaborative appointment model work under the status quo? (will be addressed tomorrow)

D. Los Angeles Model (Hon. Terry Friedman)

- Discussed by Los Angeles CPO, Ralph Miller, and Terry Friedman
- Not trying to impose model on the rest of the state
- Model: Status quo “plus” collaboration
 - BOS should appoint CPO, but presiding judge of juvenile court should play role in CPO recruitment and nomination
 - Services and facilities should continue to be operated by the CPO under supervision by the BOS, with consistent involvement from the juvenile court.
 - Institutionalize collaboration

Discussion:

- Separation of services from facilities would not give the appointing authority (the BOS) the power necessary to carry out its duties, or serve probationers effectively.

- Court would not have veto power in appointment of CPO so that judges are not officially involved – is more informal, but judges can have more impact with informal input than formal veto power. This structure avoids turf wars
- Bungarz: Can the task force recommend two different systems (for Los Angeles and the rest of the state)
- Lopez: Don't need to separate L.A. statutorily – can be more implicit; could be differences between charter counties and non-charter counties.
- Friedman: This would codify the current situation in Los Angeles – right now, the BOS and the courts have a good working relationship.
- Gonzalez: If state begins to contribute more to probation, they would want judges to appoint the CPO

III. Further Development of the California Probation Model

A. Step One: Immediate/Short-term Recommendations

1. Recommend the continuation of the task force, to ensure independence and collaboration. (PSTF II)
 - Dual funding between Judicial Council and CSAC
 - Continuation for eighteen months; coincide with the end of the Legislative session.
 - The next task force can make interim reports to the Judicial Council and CSAC.
 - Second task force would develop work further, in order to present policy recommendations to the Governor and Legislature at a later time.
 - Recommend continuity of membership at the discretion of the Judicial Council and CSAC
 - Seek sufficient staffing resources.
 - Consider expanding membership to public defenders, district attorneys, community-based organizations
 - Include other stakeholders at advisory committee level, too soon to include right now because still addressing fundamental structural issues.
2. Fallback: If unable to secure joint funding, establish a Judicial Council Advisory Committee with broad-based representation.

Discussion:

- Roddy: Composition would be broad – The AOC and Judicial Council would support this.
- Blend of executive, judicial, probation representatives
- Buy-in approach from all stakeholders (CSAC, probation, etc.)

- Advisory Committee should not just advise the Judicial Council, should be a separate entity (i.e. the task force to study employee issues that was established statutorily)
 - To ensure collaboration with other entities, an independent entity is necessary, created by legislative action. A JC committee would be part of the judicial component, and could be perceived as not being independent and objective.
 - Rules of court state that advisory committees exist to carry out the Council's business.
 - Classifying advisory committee as a Judicial Council Advisory Committee ensures funding for the committee
 - Could have JC committee as well, to promulgate standards, and a separate entity to continue working on probation services.
 - If recommending the judicial branch take over probation services, would have to have a Judicial Council advisory committee.
 - Counties won't want to accept standards promulgated by the JC advisory committee unless the judiciary is fully funding those standards.
 - Proposal: joint committee between courts, counties, and probation.
 - Proposal: establishment of separate JC and CSAC advisory committees
3. Include Fundamental Principles in report.
 4. PSTF II will establish standards, make policy recommendations, implementation strategies, to ensure that the 5 Fundamental Principles are achieved.
 5. Include Services Subcommittee Recommendations in report.

B. Step 2 – Further Development of the California Model (“Two Hat”)

1. Collaborative appointment process (leave to local discretion)
 - In counties where court appoints CPO, require collaboration from BOS, and vice versa.
 - For future CPO appointments and terminations, advice new option for use by counties, even if not codified yet.
2. Probation services are a continuum including juvenile facilities
3. Judicial branch assumption of responsibility for probation services
 - Probation employees that provide services will become court employees
 - Opt-in basis
 - Develop standards and implementation strategies
 - Probation officers provide intake and assessment in juvenile facilities

Discussion:

- Can recommend that facilities and services be administered by the same entity, but also offer compromise due to lack of feasibility right now.
 - Define scope of probation services
4. County oversight of facilities (status quo); CPO continues to oversee facilities

Discussion:

- This situation is counter to what the courthouse facilities task force is recommending.
 - Services provided in detention facilities would remain a county or executive branch responsibility
5. CPO reports to both court (PJ) and county (BOS) (employee of each)
 6. Continuity of membership

IV. Remaining Issues**A. Collaborative Appointment Process**

1. Collaboration regarding appointment/evaluation/removal
 - Opt-in basis

B. Local Supervision of the CPO

1. CPO should be evaluated/overseen by Presiding Judge
 - How PJ decides to conduct the evaluation should be left to local determination
2. CPOs want equal status with Court Executive Officers
3. Recommend feedback on performance from other departments

Discussion:

- Miller: CPOs and DPOs don't want to report to two masters; collaboration should not be confused with control. If DPOs want to remove the CPO, it will be harder since they will have to advocate with two agencies rather than one.

C. Judicial Council Advisory Committee

1. Should defer issue until second phase of task force
2. Information will be shared with interested stakeholders and input requested
3. Expansion of task force membership? After discussion, second task force will retain same composition. Additions discussed:
 - a. District Attorneys
 - b. Public Defenders
 - c. Department of Social Services
 - d. Probation Managers

4. Task force will call upon advisory resources/interested parties as needed, some of which could include:
 - a. Presiding judges
 - b. Public defenders
 - c. SCOPO
 - d. Mental Health
 - e. Drug and alcohol
 - f. Education
 - g. District Attorneys
 - h. Law enforcement
 - i. Advocacy groups

D. Additional PSTF II Issues

1. Prioritize prevention services
2. Pre-trial services – need to identify the responsible group.
3. Develop standards for work furlough.
4. Liability – discuss tomorrow
 - a. CPO
 - b. DPOs
 - c. Facilities

Attendance, July 20, 2001:

Task Force Members Present: Hon. Patricia Bamattre-Manoukian, Hon. Denny Bungarz, Mr. Alan Crogan, Mr. Bill Davidson, Hon. Ronn Dominici, Hon. Terry Friedman, Ms. Sheila Gonzalez, Mr. Bryce Johnson, Mr. Michael Johnson, Mr. Phil Kader, Hon. Bill LeBov, Mr. Bill Mahoney, Hon. Kevin McCarthy, Mr. Ralph Miller, Hon. Mike Nevin, Hon. Frank Ochoa, Mr. John Rhoads, Mr. Michael Roddy

Task Force Members Not Present: Hon. Trish Clarke

AOC Staff present: Ms. June Clark, Ms. Audrey Evje

CSAC Staff present: Ms. Elizabeth Howard, Mr. Rubin Lopez

Consultant: Mr. Alan Schuman

I. Conference Call with Mr. Bert Aunan, Chief of Supervision Services, Iowa, and Mr. Bill Burrell, Chief Juvenile Court Officer, New Jersey

- A. Introduction to Conference Call guests: Mr. Bert Aunan and Mr. Bill Burrell
(Audrey Evje)

- Mr. Bert Aunan, Jr. has served professionally in the Juvenile Justice and child Welfare systems for thirty-four years as a Juvenile Court Officer. Chief Aunan is the recipient of the Iowa Judicial Branch's Distinguished Service Award, various community and professional awards and recognition.
- Mr. William D. Burrell is Chief of Supervision Services in the Probation Services Division, Administrative Office of the New Jersey Courts. He is also the chairman of the editorial board of *Perspectives*, the journal of the American Probation and Parole Association, and is also a member of APPA's Standards Committee.

B. Overview (*Al Schuman*)

Just recently the courts have all come under a statewide system. As a part of that process probation did not go with them, but that's what we are exploring now as one of our alternatives. We have come to a conclusion that one of the models that we are thinking about is an intermediate model, the "Two Hats" approach. Basically, (juvenile and adult) probation services will be moved under the courts and all detention facilities will remain with the counties. Currently the counties are responsible financially and for providing particular services in juvenile facilities. The biggest contention here is the split of probation services and detention facilities. Our model proposal for California at this point is that the Chief Probation Officer will wear two hats: the CPO would work for the county and court, and would be responsible for administering juvenile detention facilities. Staff in the facilities would remain county employees but the rest of probation employees would become court employees. We hope that you will keep those points in mind and give us some hints, problems, and good things that are happening in your particular counties. Let's start with Bert Aunan, who can tell us how Iowa's system works, and then Bill Burrell can tell us how New Jersey works.

Bert Aunan – Chief Juvenile Court Officer, State of Iowa

Iowa's Structure

Our system was a county system until 1985. In 1985, there was a state reorganization of the courts and in that process, juvenile court services fell under the courts as well. Juvenile court services are controlled by probation in Iowa, we not only did the probation prior to the kids going to the training schools whether it is the boys or girls training school. We don't have the California Youth Authority; when the kids complete whatever action and there is still time for age majority, that case comes back to the court, gets reviewed again and gets assigned back to the same PO for continuity of service until the court determines the case should be closed.

In this county we have always had an excellent relationship with county officials and as a consequence, when this decision was made, the county continued to maintain detention services and also maintained the responsibilities for shelter care services. The counties also continue to maintain the responsibility of maintaining our offices for juvenile court services across the state. To summarize, in 1985, the following groups came under the judicial branch of government: clerks, Juvenile Court Services, and court attendants.

In Iowa, there are eight judicial districts so there is a state court administration at the Supreme Court level with various support services and a court administrator at the state level. It's a centralized funding mechanism at that level.

But when it comes to the management process, within the eight judicial districts, there is a Chief Juvenile Court judge in each district, and there is a District Court Administrator for that judicial district so that the funding then gets transferred from the centralized funding to a decentralized funding at the district level. But the management of the whole system is at decentralized funding at the district level but the chief judge at the district level being the top person so the chief juvenile court officer reports directly to the chief judge as well as the clerk, district court administrator and other people who are working within the district process.

It is a very workable process for us and because we've all had good working relationships with the various counties and have had a long continuity of ongoing service. When we made this change, the county benefited since finances in support of clerks and juvenile court services transferred to the state; the county ended up having some extra dollars to spend in other ways. They had that money because the state moved as of July 1, 1985.

Detention Facilities:

Counties have continued to provide good detention services and back in 1985 there were not a lot of detention facilities in Iowa, but since that time, many new ones have been built and the counties have provided those services.

The counties also provide shelter care. Some of the shelter care facilities are a step down to detention so that if we have used or able to make that change and move into the shelter care facility prior to going into a group home replacement. We are able to test that to see the success of that child prior to placing them in a group home placement or residential facility. The county does not have the expenses for treatment facilities that you are talking about as in California. In the shelter care area, the state participates in part paying a specific rate that the state and counties agree to. The counties have a very general group that represents them at the state level so they negotiate along with the Department of Human

Services a participatory rate that the counties can get some partial reimbursement from the state for their shelter care. This system has been very workable. We have a mix of child welfare and delinquents in the shelter care facilities. We try to keep them in shelter care for a very short time and to try to move them into other programs.

In my county, the county participates by helping us with some early-release programs in order to keep the beds turning over. We're in a process of having a new detention facility built with 45-50 beds. The potential of building that capacity up to 70 beds and in changing over to that system in a short period of time is easy. This detention facility can also be used as more of a regional detention facility for the county surrounding it. We have 99 counties in Iowa and the state has been taking a look at that process too because we need to become more efficient; whether Iowa can continue to afford to operate its 99 counties is very challenging for the state as we move ahead.

The county really steps up to assist us when juvenile court officers want to receive the services of detention and/or shelter care. They willingly support early intervention and prevention programs. I operate a 16-county area and I have approximately 22-23 early intervention and prevention programs to keep kids out of the formal system. In Iowa, we have informal probation that lasts for a six-month duration so there is the opportunity to work on the informal side of the case.

Funding

Our funding for Juvenile Court Officers comes through the Department of Human Services so when the court orders services, we negotiate with private providers along with the DHS for family-centered services, residential treatment, substance abuse treatment, or mental health treatment. The Supreme Court really doesn't like probation to be involved in contracts or grants. Probation has to use an outside source because the Supreme Court and many of the judges in the system really don't want the courts to be in a position where the courts have ownership of something and then order into it.

We have a lot of partnerships within the community. Our community size is approximately 350,000-400,000 people in Polk itself. We have about 13 independent school systems with superintendents; in many of those districts, probation has liaisons (juvenile court schoolers) that work not only with the school system but also work with the court. Again this is done with the goal of doing everything we can to keep the youth in school and they work mainly at the middle and high school level; occasionally we work at the elementary school level.

In Des Moines itself we've had a program that's called a Reach Program at the elementary level. For quite a while we've been noticing that by the time children reach the third or fourth grade they may have missed as much as 180 days of school, so we have a mediation process and a judge is assigned to a truancy program (the Reach Program) where the case is referred to the mediation group with the county attorney's office. They in turn try to mediate the case and if they are not too successful in the mediation, that case is brought before for a judge for review and that judge then takes great strides in getting the parents involved so that the child's attendance of school becomes more predictable.

To summarize, our system relative to detention and shelter care has worked very well in Iowa; the counties have stepped up and accepted their responsibility of not only taking care of that aspect of our work but also provides us with better than average offices in order to conduct the work.

Bill Burrell – Chief of Supervision Services, New Jersey

Structure

Prior to 1995, New Jersey had a county-based system, in which the county paid for the courts and court-supported operations even though the State Supreme Court had rule-making and administrative authority. The fundamental flaw with that approach was the tension between the ability to implement or adopt policy and then be dependent upon someone else to fund that policy, and from the county perspective being handed a bill and basically having little, if any, ability to influence how big that bill was, they were just forced to pay it.

And it all came to a head in the 1980's when property taxes became an issue and finally the legislative powers realized that it was time to take that burden off the counties and have the state assume it. In that way we can really become a unified court system in a truer sense with the administrative authority and the financial responsibility both vested with the state. In terms of that actual referendum that went on the ballot, it was sold as property tax relief. But in reality, other things were added to the property taxes to replace the courts and the actual amount of relief to the property owner was negative, if any at all.

Our current structure is that we still remain in the counties. There's a probation office in each one of the county seats. The courts are still organized primarily at the local level so that we have a presence in the same way we always did. I sometimes use the phrase, "we went from being 21 separate independent county-funded court systems to being 21 separate independent state-funded court system."

We begun unification five years ago; we've made a lot of progress but a lot is left to do. I think one of the challenges that we're struggling with, in this type of

centralized, yet decentralized system, how to maintain the level of consistency in the quality and the quantity of services that are provided locally; another challenge is the implementation of statewide policies and programs at the local level. New Jersey is a fairly compact state with 21 counties compared to 99 counties. It is difficult to ensure that a policy adopted by the Supreme Court or the Judicial Council will be implemented consistently in all 21 counties; that's an issue that we've been struggling with for the last 20 years or more, but primarily since the unification occurred in 1995. That would be something I would highlight for you as you look to making a change in structures: how to ensure that what the court has adopted has actually been done.

Transitional Challenges

There are many challenges that you should be aware of that occurred during our transition.

1. Human Resources.

- We had better than 600 job titles across the 21 counties and we realized that there were only 60 or 70 different jobs that were being done, but people were labeled with different job titles and we needed to collapse that down to a manageable number. That was a huge challenge. Fortunately all of the court employees were part of the same pension system so that part didn't need to be addressed at all, they were maintained their benefits through the pension system.
- We also had to equalize the salaries and the fringe benefits that everybody got and that was a major undertaking as well.
- Labor relations: We had at that point 72 or 76 separate bargaining units in the counties and we had to bring all those people to the table when coming up with a more manageable number. We managed to reduce that to 6 bargaining units, which now cover the entire state.

2. Support Services

- With that transition from a county-funded and county-supported system, the judiciary at the local level and at the state level had to assume responsibility for that entire human resource responsibility, purchasing telecommunications, vehicles, and all of the support services that were provided by the county that now had to be picked up by the state. The provision of support services is the area where the state judicial structure had the most difficulty and also has grown the most.

3. Facilities

- As part of the unification legislation, the counties retained their responsibility for facilities, which includes the courthouses themselves as well as any leased space that court offices occupied. These offices were primarily the probation offices and satellite offices. That responsibility remains with the county and it's the source of some

continuing tension because they are providing space for state employees and offices, but their priority is to take care of county employees.

Question, Bill Burrell: Under the “Two Hats” model, the CPO would be responsible for state employees within the probation department and also county employees in the detention facilities and the ranches and the other juvenile programs. Is that correct? (Yes)

I think that this model will immediately result in a conflict: you would have employees of not only another branch of government, but also another level government (county executive branch employees) being supervised by someone from the state court system. Unless everybody agrees that this will just occur during the transition period, and unless they recognize the separation of powers issue and agree to have those people supervised, some mechanism for conflict resolution has to be presented.

Al Schuman: I forgot to mention that the Chief Probation Officer handles everything right now under the county model so that there wouldn't be a change in relation to who is in charge.

Bill Burrell: I think problems would arise when you have a dispute over funding or human resource actions, etc. Problems arise when you have someone from a different branch of government telling county executive level people what to do.

Bert Aunan: What about union activity?

Burrell: I think those will be the people that will raise the issue immediately, because they are representing county executive level employees and they are being told by the state judicial employees what to do.

Sheila Gonzalez: I'm a little confused; in neither of the location does the Chief Probation Officer run detention. Is that correct?

Aunan: That's correct.

Burrell: In New Jersey juvenile detention is a county executive branch function.

Gonzalez: And who runs it? Do you have some kind of correctional director?

Burrell: In New Jersey, the county Department of Youth Services or the county Department of Human Services runs detention facilities.

Gonzalez: Who handles adult probation services? Is that under the courts also or is that separate?

Burrell: In New Jersey, adults and juvenile probation are part of the court system.

Aunan: In Iowa, adult probation is under the executive branch of government under adult corrections.

County funding

Burrell: My experience has been that with regard to county funding, especially in a state like California, counties have differing levels of capacity for funding. As a result of that their ability to provide services depends in some degree on their ability to fund it - in an unified statewide service such as probation, this is a fundamental flaw.

If the service, be it probation or anything else, is based at the county level in an independent county operation, I think that you can live with the difference in funding and differences in services between counties that result from that. But when you have a statewide court system, for example, with probation being part of that, I don't think it's acceptable to allow county funding abilities to affect the level of services provided to the communities and the courts around the state.

Probation is a judicial function

The other bias I have is that probation belongs with the judiciary. The judges create our work, and we should be accountable to them for how we do the work and what the ultimate results are. We just transferred our parole officers who were part of the Department of Corrections over to the Parole Board. Now they have much the same model as we have in the court system. The parole board creates their work and the parole officers now work for the board and are accountable directly to the board and I know this is not necessary the way all the systems in the U.S. are structured but that's my bias.

Status of Employees in Juvenile Facilities

Ochoa: It sounds like in each jurisdiction the counties have retained authority over the facilities, but what does that mean in terms of the persons who are in the facilities working with the children? The juvenile institution officer/group counselors, are they probation employees just dealing with detention supervision? Are they probation employees that have responsibilities for probation of some services? Do they connect with other probation services that are provided for kids who are out of detention in any fashion?

Burrell: In New Jersey those juvenile detention employees are county level employees for the county executive branch of government. The state's only role

with regard to juvenile detention is the monitoring role that the state Juvenile Justice Commission provides. The commission is our state juvenile correctional agency. They run the training school, community-based programs, juvenile after-care programs, and juvenile parole. But detention at the local level, prior to being adjudicated guilty, is handled by the county and those staff are county employees.

Continuity of Services

Schuman: One of the major issues that we think is a fundamental principle that we want to adhere to is continuity of services starting from detention. How would that work in both of your states in relation to being sure that the information is exchanged and recognizing that detention and treatment facilities are part of the whole process of rehabilitating juveniles?

Burrell: The Supreme Court and Administrative Director do not see the role of the judiciary or probation as providing treatment services, whether they be residential treatment services or drug treatment, they agreed that we have a desperate need for those services in probation but that it should be the responsibility of the executive branch of government to provide those services. So as a result, there probably are some real gaps in our ability to get the level of service that we need for the kids that are off probation. And I would have to agree that we do not have a seamless system or a continuity-of-care type of system because of that gap.

Gonzalez: The majority of judges in California feel that same way because they think there's an appearance that when judges refer people to something they are controlling that it looks like they're trying to have a monetary influence over things. It's a very uncomfortable position for the majority of judges.

Aunan: If you call some of the judges in Iowa they don't even want to have the taint of anything to avoid any conflict. They feel that the court needs to order treatment and it needs to come through the state executive branch of government.

Crogan: Iowa has eight judicial districts?

Aunan: Eight judicial districts, that's correct. In my district, I have 16 out of 99 counties.

Crogan: How many petitions a year are filed in Iowa?

Aunan: In Polk County, we probably have 1100 or 1200 petitions filed per year. I don't have that information before me as it relates to the state. We're the largest county.

Crogan: What is the state's population?

Aunan: A little over 2 million.

Crogan: If you take the adult field services, pre-sentence reports, juvenile services and their intake investigation supervision responsibilities, and the detention services, whom do you supervise and who are you responsible for?

Aunan: The county employees are at the level of detention and shelter care. The state employees are the juvenile court officers in the judicial branch of government, and adult services are in the executive branch of government under corrections.

Crogan: Who runs Corrections?

Aunan: The Department of Corrections report to the governor and Boards of Regions in the executive branch of government.

Strengths and Weaknesses of system

Crogan: What are the strengths and weaknesses of this system? It sounds very bifurcated.

Aunan: Realizing that we have 99 counties in Iowa, the system is probably to be looked at again at some point to improve government efficiency. The Department of Human Services (where our money flows through) is also in the executive branch of government. It's a system that has operated for years in Iowa, and we can make things work easier than a number of other states since we are not a large state. When I go to conferences, people ask why we don't have the California Youth Authority, but we're able to operate this system and make it work because of the state's small size. I have the largest county, which is Polk, and I also have the smallest county, which is Adam's county that has about 5,000 people. We all have partnerships, and information exchanges rather easily since both the Corrections department and probation report to the Chief Judge of the district. It's not difficult for corrections and juvenile court services then to form other partnerships surrounding what needs to be accomplished.

Rhoads: I'd like to know from both of you:

1. Do you perform intake functions at the detention facilities and what types of liaison work do you do with the detention facilities?
2. Do your courts make dispositional commitments to detention facilities as a part of the sentencing structure?
3. What has been the overall impact on crowding in your facilities after the change?

Burrell:

1. In terms of intake responsibilities, our P.O.s who work in the family court division do the what we call the intake responsibility; they monitor all delinquency complaints that are filed, and make determinations as to we should be detained or diverted to informal case processing, go on the formal calendar, etc. So we do have a monitoring responsibility; actually, intake control is within the responsibility of the family court and those probation officers. That function was in place before our unification occurred.
2. Our juvenile code does authorize the judge to impose a term in the detention facility of up to sixty days as a condition of probation. So there is the ability to house the juvenile in the detention facility as a condition of their sentence or disposition.
3. As result of the change, there has not been any increase in crowding. In fact, with the decline in juvenile crime for the first time there has been room in almost all of the detention facilities.

Aunan:

1. Polk County has a centralized intake system; a group of people operate that 24 hours a day, 7 days a week, mainly because of the large urban population of 450,000. The police will bring those that they're not able to release to a parent, guardian, or custodian to that intake process and that process will continue in the new facility. Some interstate compact cases will appear there and then other decisions are made at that intake process. I have another intake process within my offices and prior to July of 1998 we did the intake for delinquency, child welfare, interstate compact cases, mental health and substance abuse because my officers at that time were not only handling delinquency cases but they were handling child welfare cases in conjunction with the Department of Human Services. That has all changed. As of August 30th, I will be out of the intake services for child welfare, mental health, and substance abuse. The county attorney along with the Department of Human Services will be working on those. I still have responsibility for interstate compact cases and delinquency referrals.
2. There are no terms in detention. We have adequate reviews with staff of detention facilities; they meet monthly with my officers here at the court to review the status of cases. We've taken a look at having a review process, when kids come into the detention facility, of having a community group take a look at the referral to the court to make some of those decisions in more of a community way, to arrange early intervention or prevention programs for some of those kids. And that same committee takes a look at kids who are lingering in detention so that some other recommendation can

- be made. There's a program in Oregon that has a detention review committee that meets daily and we've taken a look at that model. The reason why we try to implement the intake model at the level of detention and shelter care is so that the police can present all their information and then immediately get back out on the street and that's been highly successful. I had that model since about 1992.
3. Regarding overcrowding, we initially we didn't notice of a change since we moved from a county to a state system. I think our numbers really started picking up in 1991/92 in terms of filings. Again, I would say that a lot of people have worked together through time so if there was a problem we all try to get together to work with it out quickly.

Statewide standards

Schuman: Are there any incentives or any ways to get counties to abide to the statewide standards?

Burrell: No, there's no financial incentives attached to the standards. But the way we've been approaching that is to really give the responsibility to the assignment judge, who's the chief judge at the local level. When policies are adopted now, the administrative director issues them directly to the assignment judge. At the local level, they need to come back with a plan detailing how they're going to implement that particular policy of standards locally. We're working now on a visitation model where we're going to have a team of two POs and a member of our staff at the AOC who will go out to a probation division and conduct an audit. Initially it will be a collegial process, but it's designed to monitor how well those standards and practices have been implemented, and where necessary provide technical assistance as needed. Ultimately it will come to the point where perhaps if a vicinage is overly recalcitrant and doesn't have any real substantial reason to justify their lack of compliance, I can see money being withheld through the annual budget process as an incentive to get them to comply.

Schuman: How do you set standards for your rural versus your urban counties? Are they different?

Bill: Yes, the standards are the same. But we do take into consideration how quickly a county tried to implement a policy when deciding how much pressure to put on a particular county to come into compliance because we understand the challenge of implementing supervision standards in rural counties. One of the biggest challenges that this unification process faces is trying to come up with a level of service, and an approach that can work in the smallest most rural county to the largest most urban county. We do that working through the CPOs; they have to develop a way that everybody can address a particular service or program and live with it. I think the strength of that approach is that it's not handed down from

the state; rather, it's generated from among themselves and their staff so it has a greater credibility.

One of the tension that continues is with the desire to standardize and unify and make all the systems look alike, a lot of times that conflicts with local tradition, culture, politics, desires, etc. That's something the CPO, the assignment judge, and the court administrator have to deal with at the local level in convincing folks that we are part of a statewide unified judiciary system and that we're going in this direction.

Croghan: How close are you to becoming fully unified? New Jersey started the process in 1995?

Burrell: I think that at best we're halfway there, at worst a third of the way there. A lot of it depends on the state's willingness to provide the funding that we need. Because we have discovered that substantial amounts of disparity exist, not only with the number of staff but also with their salaries; part of the unification process has been to bring everyone up an equal level. We felt that, for example, the PO's salaries, were substantially below where they should be compared to other state employees with similar positions (i.e. parole officers), so we immediately had to invest a lot of money into their salaries to reach that level of equalization.

Manoukian: Can you give us three reasons why we would want to move to the type of system you have in your state? Why would we want to move from what we have now to a similar system?

Burrell:

1. Stable funding: As I said before, one of my biases is that the county is really not capable of providing adequate funding to a statewide service. By moving probation to the state budget, there's an inherent structural capacity that is much greater at the state level to fund services such as probation.
2. Increased accountability: The second advantage would be an enhanced degree of accountability at all levels of the probation organization. It would be clear that probation works for the courts, they're funded by the courts, they're accountable to the judges at the local level, but also at the state level for what they do and how they do it. When you have a mixed system where the CPO is a county employee paid out of the county executive branch works for the judges but is not directly accountable to the judges because he/she is appointed and paid by somebody else.

Aunan: I would second the statements that Bill just made. In Iowa we have 99 counties. As a consequence of that things are more uniform, although we still

haven't gotten to setting standards for the Juvenile Court Officers in terms of caseloads.

When it comes to reviews of the detention and shelter care facilities, there's a licensing division within the Department of Human Services that helps to keep the detention and shelter care facilities in order and also helps to make sure that we don't go over our capacity within those programs. There's another licensing division in the human rights organization that reviews detention and jails at the same time. Those divisions in the executive branch of government monitor the system.

Iowa still has some decentralized management. There are judges that want to be able to make sentences that they feel more appropriately reflect their area in which they're working. At times people want uniformity but at the same time, everyone would like to have a certain degree of flexibility and I think that's the piece you always bump up against.

Burrell: I think one additional benefit of an unified probation service under the judiciary is that it would become very clear to judges that they are responsible for probation and in a certain sense are accountable for probation as well. I think that tends to draw judges more directly into probation at the case level, in terms of providing the support that the probation officers need to carry out those orders in the community.

When you have a system where the probation officers don't work for the judges, it's easy for the judges to be less responsive to them because they're not their employees, they're not directly accountable for those cases in those officers. And from my experience DPOs feel that they need that judicial support. We try to do as much as we can in our state to make those judges on the bench feel connected to those cases and feel the need or the obligation to support their probation officers. So I think that would also improve the morale among probation officers, in terms of their perception of being connected to an organization that helps them do their job well.

Aunan: Another benefit is that I can register to lobby at the state legislature. As a consequence, when I go there to talk to those members relative to how language should be presented in the code, it's far easier to do that as a state employee. As an extension of the court I can lobby for the kinds of things that judges can't lobby for.

Schuman: Thank you for your participation.

II. Further Development of California Community Justice Model

A. Work Plan

1. Complete statutory and legislative review of all laws and mandates related to the delivery of probation services.
 - An overview of the laws in existence in the state of California that affect the work of probation.
 - This will also include a review of all the standards in existence by the Board of Corrections, in the California Administrative code, the California Rules of Court and judicial standards, and any other organizations that relate to any services or facilities
 - National review of cases related to caseloads, employer-employee relationships and agency relationships (Arizona case)

Resources

- Dedicated staff (Liz Howard and Audrey Evje) will work on this as well as people in both branches of government. We also have the CPOs and DPOs as excellent resources.
 - Law school interns – Audrey Evje and Liz Howard
 - Clark Kelso (AOC in-house scholar)
 - June Clark/Liz Howard – solicit volunteers from McGeorge
 - Judge McCarthy – Hastings
 - Judge Ochoa – UC Davis
 - Judicial Fellow
 - Advisory resources outside the task force.
 - Probation experts
 - Technical experts
2. Statewide Reviews
 - Division of Court/County Services – the next group needs to determine which services are court services and which are county services
 - Probation Services – define which services are included
 - Juvenile/Detention/Treatment Facilities
 - Resources: CPOs and probation departments
 - Statutes, laws that govern probation in California
 - Budgets of probation departments and counties, employee salaries
 - What would the transition of probation services to the courts entail?
 3. Standards/Guidelines
 - Definition of Services

- The Services Subcommittee is recommending that the next group develop standards and guidelines regarding:
 - Workload standards
 - Minimum levels of service
 - Training, mission statements/objectives, technology, assessment, etc.

Discussion:

- We need to establish what it is probation is supposed to do in California. In other states, many services are provided by the executive branch rather than by probation.
- The second task force will be responsible for determining this, exactly which services will transfer to the courts, how much it will cost, etc.

4. Ethical/Financial/Liability Concerns

- What are the liability issues related to the courts assuming responsibility for probation services and/or detention facilities
- Review other states (In Arizona, all probation employees are state employees)
- Work to enhance probation in a manner consistent with judicial standards and ethics
- Financial Implications
 - Secure stable funding
 - Improve levels of service
 - Collaborate with other branches of government
- Fair establishment of MOE from county; fair assessment of county services.

5. Employee Issues

- Review of statutes and laws that place responsibility on probation officers for delivery of services
- Employee-bargaining
- Parity
- Retirement
- Officer safety
- Peace officer status
- Qualifications of the CPO

6. Vision/approach for next 18 months: Collaboration/cooperation/education

- Collaboration/cooperation
 - Utilize advisory resources (Crogan: salary information for CPOs, description of duties, mandates from CPOC)

- AOC Finance division – develop survey to delineate costs
- Education
 - Utilize PSTF web site
 - Continue outreach efforts
 - Wide circulation of draft report
 - Public hearings?
 - Circulate ideas with judges, CPOs, DPOs, other counties, etc.
 - Contact with key legislators (appropriate timing)

II. Next meetings

A. August 24, 2001 Writing Group Meeting

- Volunteers will meet at the AOC
- Draft will be sent to volunteers two weeks in advance of meeting
- Due to the length of the document, certain volunteers will be asked to review certain sections carefully prior to the meeting, and it will be reviewed as a whole at the meeting.
- If members cannot attend the writing group meeting but would like to examine the report in advance, contact Audrey Evje for a copy.